

REMARKS

The Examiner's indication of allowable subject matter of claims 21, 23 and 24 is noted with appreciation.

Claims 15, 18-21, 23-24 and 29-38 are pending in the application. Claims 6-14, 16-17, 22 and 25-28 have been cancelled without prejudice or disclaimer. Allowable claim 23 has been rewritten in independent form in the manner kindly suggested by the Examiner in the Office Action. Claim 21 has been amended to depend from claim 23. Independent claim 15 has been amended to avoid the Examiner's rejection. Claims 29-38 have been added to provide Applicants with the scope of protection to which they are believed entitled. Claims 29-32 are readable on the elected invention of this divisional application. Claims 33-38 are readable on the invention of the parent application Serial No. 10/320,725. Claims 33-38 should be examined upon withdrawal of the Restriction Requirement mailed June 17, 2003 in the parent application.

The Restriction Requirement issued June 17, 2003 in the parent application is no longer deemed proper in view of the outstanding Office Action which rejected the claims of this divisional application (e.g., original claims 6-14) over exactly the same art that has been applied in the parent application. In particular, the Examiner has demonstrated his ability to apply the same search results to reject the claims directed to allegedly distinct Inventions I (original claims 1-5, in the parent application) and II (original claims 6-14, in this divisional application). Accordingly, Applicants respectfully submit that the search and examination of the entire application, including claims directed to both Inventions I and II, can be made without serious burden on the Examiner. *See MPEP*, section 803. The Examiner's reason for insisting on restriction is no longer valid, and therefore the Restriction Requirement should be withdrawn.

The Examiner's art rejections of claims 6-20, 22, and 25-28 over the art applied in the parent application are traversed for the same reasons advanced during prosecution of the parent

application, especially the arguments advanced in the Amendment filed June 25, 2004, page 7, last line through page 10, line 7 from the bottom of the page; and the Amendment filed November 19, 2004, page 10 line 15 through page 11 line 16, which arguments are incorporated herein by reference.

Accordingly, Applicants respectfully submit that the Examiner's rejections are not well grounded and should be withdrawn. Solely for the purpose of expediting prosecution, Applicants have made further amendments to more specifically define the invention over the art.

Amended claim 15 is now directed to a refrigerator, comprising a refrigerating chamber and a service device, said device comprising (i) a thermostat including an electric temperature control circuit, (ii) a manual regulator and (iii) a flexible control cable. The electric temperature control circuit is mounted in the refrigerator but outside the refrigerating chamber. The electric temperature control circuit includes a setting element which is physically moveable relative to a remainder of the electric temperature control circuit, wherein different relative positions between the setting element and the remainder of the electric temperature control circuit indicate different temperature settings for the thermostat. The manual regulator is provided for mechanically adjusting the relative position of the setting element and the remainder of the electric temperature control circuit, wherein the manual regulator is mounted in the refrigerating chamber at a location accessible to a user of the refrigerator and to be physically moveable relative to a wall of the refrigerating chamber. The flexible control cable mechanically connects the manual regulator and the setting element of the electric temperature control circuit for mechanically transferring physical movements of the manual regulator into corresponding physical movements of the setting element, and hence, into corresponding temperature setting of the thermostat.

Thus, the thermostat of amended claim 15 has two moveable parts that are disposed inside (manual regulator) and outside (setting element) the refrigerating chamber and that are mechanically connected by a control cable.

The primary reference of *Terhak* teaches, at best, only one “mechanical part” 38 inside the refrigerating chamber at the upper end of the cable. Outside the refrigerating chamber and at the other end of the cable, i.e., in the digital circuit 30, there is no other mechanical part. Thus, *Terhak* fails to teach or suggest not only the claimed flexible control cable that mechanically connects the parts, as argued in the Amendment filed in the parent application, but also the claimed setting element mounted outside the refrigerating chamber.

The device of *Terhak* cannot be modified by *Day* to include the missing elements, lacking a proper suggestion or motivation, i.e., an advantage that could be obtained in the combined device.

As to claim 18, the Examiner’s allegation that it is an obvious choice to use a Bowden cable instead of the “flexible cable” of *Day* in the absence of a showing of criticality or unexpected result is traversed, because the use of a Bowden cable does have significant advantage over the rigid rod of *Day*. As can be seen in FIG. 1B of *Day*, threaded rod 268 must be rigid and must travel strictly along the linear path (double end arrow) visible in FIG. 1B. This limits the control device of *Day* to a very limited number of possible configurations. In contrast, a Bowden cable, as recited in claim 18, can be bent (see FIGs. 1-2 of the instant application) and allow mechanical forces to be transmitted virtually in any desired direction between any two desired points regardless of the relative spatial position of the two points. The claimed Bowden cable is therefore far superior to the *Day* rigidly threaded rod 268, and its use in the invention of claim 18 is critical.

Claims 29-32 are patentable over the applied art of record for the reasons advanced with respect to independent claim 15. New claim 29 is also patentable on its own merit because the applied art of record, especially *Day*, fails to teach or suggest the claimed flexible cable which has a section bent at an angle of about 90°. Note, the must-have straight configuration of rod 268.

New claims 33-34 are patentable over the applied art of record, because the art, especially *Day*, fails to teach or suggest the claimed flexible cable which has a section bent at an angle of about 90°. Note, the must-have straight configuration of rod 268.

New claims 35-38 are patentable over the applied art of record, because the art, fails to teach or suggest the claimed control box which is also recited in allowable claim 23.

Each of the Examiner's rejections has been traversed/overcome. Accordingly, Applicants respectfully submit that all claims are now in condition for allowance. Early and favorable indication of allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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